

REMARKS

The present Office Action was mailed to Varian, Inc. Please change the mailing address to undersigned which is:

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This response affirms the election made on December 22, 2005 and accordingly withdrawn claims have been cancelled.

The specification has been amended to overcome the Examiner's objections. Specifically on page 10, line 2, the recitation of the pronoun "that" has been eliminated. On page 10, line 29, 34, and 36, the paragraph has been amended to overcome the Examiner's objections.

In response to the Examiner's objection that the specification under 37 CFR 1.75(d)(1) and MPEP Section 608.01(o) claims have been amended in order that the specification provides sufficient antecedent basis therefore.

In response to the Examiner's objection to the drawings, new replacement sheets 2-6 and 3-6 are herewith submitted to overcome the objection.

The Examiner has rejected claims 42-58 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Numerous points identified in this rejection by the Examiner have been overcome by the present amendment to the claims. Specifically, the claims have now been drafted in terminology directly corresponding to the original specification on page 9, third paragraph. Accordingly, no new matter has been added.

Claims 42-58 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by U.S. 5,637,224 to Sirkar, et al. Claims 48-61 have been cancelled and claims 42-47 amended to overcome the Examiner's rejection under 35 USC 112, second paragraph, as hereinabove noted.

In this rejection, under 35 USC 102(b), the Examiner states that Sirkar, et al. describes an extraction method comprising the steps of disposing a sample solution to a first container, disposing a hollow second container into the sample solution with a vacuum atmosphere, providing the second container with a permeable membrane wall having a fiber pores, disposed in an acceptor solution into the second container and removing analyte enriched acceptor solution from the second container.

In traverse of this rejection, the applicants submit that anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of the claimed invention. RCA Corp. v. Applied Digital Data Systems, Inc., 221 USPQ 385 (Fed. Cir. 1984); *In re Sun*, 31 USPQ 2d 1451 (CAFC 1993); Advanced Display Systems, Inc. v. Kent State University, 540 USPQ 2d 1673 (CAFC 2000).

Further, the Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Ex Parte Levy*, 17 USPQ 2d 1461 (USPTO Board of Patent Appeals and Interferences 1990).

In addition, the Applicants submit that anticipation must meet strict standards and unless all of the same elements are found in exactly the same situation and united in the same way to form identical function in a single prior art reference, there is no anticipation. Tights, Inc. v. Acme-McCary Corporation, et al., 191 USPQ 305 (CAFC 1976).

With this criteria in mind, the present invention as presented in the amended claims provides for stirring the sample solution until equilibrium is established between the sample solution and the acceptor solution through the membrane wall.

This must be contrasted with the Sirkar, et al. reference which provides for maintaining a pressure difference substantially within a predetermined pressure range between the liquid pressure of

the aqueous feed and a liquid pressure of the liquid extractant so that one of the feed and the liquid extracted which substantially wets the porous membrane does not disperse to the other of the feed and the liquid extractant.

This method is contrary to the teachings of the present invention which utilizing a stirring of the sample solution until equilibrium is established. The Sirkar, et al. reference represents a pressurized transfer whereas the present invention provides no pressure. Accordingly, a prima facie case of anticipation has not been made by the Examiner under 35 USC 102(b) on the basis of the Sirkar, et al. reference and the Applicants respectfully request the Examiner to withdraw this rejection.

In view of the arguments hereinabove set forth and amendment to the specification, drawings, and claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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